

NO. 5:11-CV-28-H(2)

Defendant.

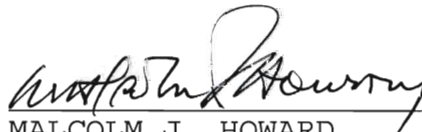
Case 5:11-cv-00028-H Document 33 Filed 04/22/11 Page 1 of 2

not met their burden of establishing under Winter v. Natural Res. Def. Council, Inc., 555 U.S. 7 (2008), that they are entitled to a preliminary injunction pending a trial on the merits in this action.

Nevertheless, the court determines that the temporary restraining order entered by the state court should be continued in effect through May 13, 2011, in order to allow the state administrative agency to conduct the appeal hearing presently scheduled before it for May 2, 2011, and to give that administrative body an opportunity to rule on the merits of plaintiffs' appeal. This will also give plaintiffs an opportunity to amend their complaint to adequately state a plausible claim for relief, if any, under the federal procedural rules. If warranted, the court will consider at that time any further requests for preliminary injunctive relief.

The temporary restraining order entered on December 30, 2010, by Judge Milton Fitch, Jr., North Carolina Superior Court Judge, shall remain in effect through 11:59 p.m. on May 13, 2011, at which time the order will expire.

This 22nd day of April 2011.



MALCOLM J. HOWARD
Senior United States District Judge

At Greenville, NC
#31